

★ JUN 14 2011 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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In re:

AMGEN INC.,

Putative Defendant.

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ORDER

10-MC-249 (SLT)(JO)

TOWNES, United States District Judge:

“Putative Defendant” Amgen Inc. (“Amgen”) is a biotechnology company, headquartered in California but operating worldwide. *See* <http://www.amgen.com>. According to Amgen, the United States Attorneys’ Office for the Eastern District of New York (the “Government”) has been investigating the corporation since 2006 in connection with allegations that Amgen violated the False Claims Act, 31 U.S.C. §§ 3729 *et seq.*, and other federal statutes. Amgen claims it has cooperated with the Government and agreed to “coordinate contacts between the [G]overnment and Amgen’s current employees through Amgen’s counsel.” Amgen’s Motion for a Protective Order (Docket No. 1) at ¶ 3. However, after initially accepting Amgen’s assistance, the Government abandoned this protocol and began to contact the employees directly, attempting to conduct interviews and to subpoena documents in their possession.

On April 16, 2010, Amgen moved this Court for a protective order, alleging that the Government’s practice violated Rule 4.2 of the New York Code of Professional Responsibility. By Referral Order dated April 30, 2010, this Court referred this motion to Magistrate Judge James Orenstein (“Judge Orenstein”).

Although the Referral Order directed him to hear and determine the motion, Judge Orenstein deemed it necessary to file a report and recommendation (the “R&R”). That R&R, dated April 6, 2011, recommends that this Court dismiss Amgen’s motion for a protective order

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as non-justiciable or, in the alternative, deny it on the merits. R&R at 1, 43. The R&R expressly states that any objections to the R&R had to be filed no later than April 25, 2011, and that failure to file objections by that date would result in a waiver of the right to appeal an order adopting that R&R.

To date, Amgen has not objected to the R&R. The Court is not required to review the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, by failing to file timely objections, Amgen has waived the right to appeal this Court's Order. *See 28 U.S.C. § 636(b)(1); Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989).

CONCLUSION

For the reasons stated above, Magistrate Judge Orenstein's Report and Recommendation dated April 6, 2011, is adopted in its entirety. This Court hereby dismisses Amgen's motion for a protective order as non-justiciable. Even if the motion were justiciable, it would be without merit. Accordingly, the Clerk of Court is directed to close this case.

SO ORDERED.

s/Sandra L. Townes

SANDRA L. TOWNES
United States District Judge

Dated: June 10, 2011
Brooklyn, New York